

AMENDED IN ASSEMBLY AUGUST 13, 2008

AMENDED IN ASSEMBLY AUGUST 8, 2008

AMENDED IN ASSEMBLY AUGUST 4, 2008

AMENDED IN ASSEMBLY JULY 1, 2008

AMENDED IN ASSEMBLY JUNE 18, 2008

AMENDED IN SENATE JANUARY 28, 2008

AMENDED IN SENATE JANUARY 17, 2008

AMENDED IN SENATE JANUARY 7, 2008

SENATE BILL

No. 364

Introduced by Senator Simitian

February 20, 2007

An act to add Section 1724.5 to the Civil Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

SB 364, as amended, Simitian. Personal information: privacy.

Existing law requires any agency, person, or business that maintains computerized data that includes personal information that the agency, person, or business does not own to notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

This bill would require that notification to the owner or licensee of the information include, among other things, a description of the categories of personal information that were, or may have been,

acquired, a toll-free or local telephone number or ~~electronic mail~~ *e-mail* address that individuals may use to contact the agency, person, or business, and the telephone numbers and addresses of the major credit reporting agencies. If the owner or licensee of the information is the issuer of the credit or debit card or the payment device, or maintains the account from which the payment device orders payment, *or is an agency required to give notice of a security breach, as specified*, the bill would require the owner or licensee to disclose the same information to the California resident in plain language, as specified.

This bill would become operative only if AB 1656 of the 2007–08 Regular Session is enacted and takes effect on or before January 1, 2009.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1724.5 is added to the Civil Code, to
2 read:
3 1724.5. (a) Any person, business, or agency subject to Section
4 1724.4 that is required to give notice of a breach of the security
5 of the system pursuant to subdivision (b) of Section 1798.29 or
6 subdivision (b) of Section 1798.82 shall include in that notification
7 to the owner or licensee of the information, in plain language, all
8 of the following information if available at the time the notice is
9 provided:
10 (1) The date of the notice.
11 (2) The name of the agency, person, or business that maintained
12 the computerized data at the time of the breach.
13 (3) The date, estimated date, or date range within which the
14 breach occurred, if that information is possible to determine at the
15 time the notice is provided.
16 (4) A description of the categories of personal information that
17 ~~were~~ *was*, or is reasonably believed to have been, acquired by an
18 unauthorized person.
19 (5) A toll-free telephone number for the agency, person, or
20 business subject to the breach of the security of the system of that
21 agency, person, or business or, if the primary method used by that
22 agency, person, or business to communicate with the individuals
23 whose information is the subject of the breach is by electronic

1 means, an ~~electronic mail~~ *e-mail* address that the individuals may
2 use to contact the agency, person, or business so that the individuals
3 may learn what types of personal information that agency, person,
4 or business maintained about the individuals ~~that~~ were subject to
5 the security breach. If the agency, person, or business that
6 experienced the breach does not have a toll-free telephone number,
7 a local telephone number may be provided to the owner or licensee
8 of the information to contact the agency, person, or business.

9 (6) The toll-free telephone numbers and addresses for the major
10 credit reporting agencies.

11 (b) The notification required by ~~subdivision (a)~~ *subdivisions (a)*
12 *and (c)* may be delayed if a law enforcement agency determines
13 that the notification will impede a criminal investigation. The
14 notification required by ~~subdivision (a)~~ *subdivisions (a) and (c)*
15 shall be made after the law enforcement agency determines that it
16 will not compromise the investigation.

17 (c) If the owner or licensee of the information is the issuer of
18 the credit or debit card or the payment device, or maintains the
19 account from which the payment device orders payment, *or is an*
20 *agency required to give notice of a breach of the security of the*
21 *system pursuant to subdivision (a) of Section 1798.29*, the owner
22 or licensee shall disclose to the California resident in any
23 notification provided pursuant to subdivision (a) of Section 1798.29
24 or subdivision (a) of Section 1798.82, in plain language, all
25 information described in paragraphs (1) to (6), inclusive, of
26 subdivision (a) of this section that is available at the time that
27 notification is made, except however, with respect to paragraph
28 (5), an ~~electronic mail~~ *e-mail* address may be provided in lieu of
29 a toll-free or local telephone number to those individuals with
30 whom the primary method used by that agency, person, or business
31 to communicate is by electronic means.

32 SEC. 2. This act shall become operative only if Assembly Bill
33 1656 of the 2007–08 Regular Session is enacted and takes effect
34 on or before January 1, 2009.